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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,121	04/16/2004	Charles Bolta	B012.PAT-5	9882
7590	11/07/2005		EXAMINER	
Emery L. Tracy P.O. Box 1518 Boulder, CO 80306-1518			ST CYR, DANIEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/826,121

Applicant(s)

BOLTA, CHARLES

Examiner

Daniel St. Cyr

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This case claims benefit of application 60/464,080, filed 4/18/03.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 6-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kennedy, US patent No. 6,832,728.

Kennedy discloses a remote indicia reading system comprising: a device 44; a photo luminescent material 14 applied to the device 44; and bar code print applied to the device over the photo luminescent material (see figure 2; col. 5, line 8+).

Re claim 7, the device inherently includes means for attaching to a surface, such as the surface of a vehicle (see col. 4. line 43).

Re claim 8, the bar code is printed in black (see figure 2).

Re claim 9, reflective border 14 surrounding the bar code (see fig. 2).

Re claim 10, wherein the reflective border is a reflective tape (col. 2, lines 44-54).

Re claim 11, the code indicates the status of a moving vehicle (see col. 2, line 29+).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2876

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy, US Patent No. 6,832,728, in view of Rhoads, US patent No. 6,285,776. The teachings of Kennedy have been discussed above.

Kennedy fails to disclose or fairly suggest printing the bar code with photo-luminescent Ink and that the bar code indicates a status, a hazardous material, process, critical steps, or progress prompting.

Rhoads discloses methods for identifying equipment used in counterfeiting comprising: providing watermarks in the identifying equipments (banknotes, passports, stock certificates, checks, etc.), the watermarks can be invisible bar code, can perform specific function or process, can be printed using photo luminescent ink for allowing a merchant to quickly verify the presence of the watermark in the equipment without resorting to a scanner and computer analysis (e.g. by examining under a black light). (see col. 13, lines 1-4 and col. 16, line 56+).

In view of Rhoads's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system of Kennedy so that the bar code is printed using photo luminescent material. Such modification would provide greater visibility, which would enhance the reading process. Even with abnormal lighting condition (i.e. dark, foggy), the code would be easily located so as to accurately read. Therefore, it would have been an obvious extension as taught by Kennedy.

Art Unit: 2876

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mantegazza, US Patent No. 5,190,318. Connell et al, US Patent No. 5,554,842. Straub, US Patent No. 6,244,508.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr
Primary Examiner
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', with a long horizontal line extending to the right.

DS